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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/660,049	09/12/2000	Steven John Romme	659/704	5830
757	7590	06/30/2004	EXAMINER	
BRINKS HOFER GILSON & LIONE P.O. BOX 10395 CHICAGO, IL 60610			DURAND, PAUL R	
			ART UNIT	PAPER NUMBER
			3721	

DATE MAILED: 06/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/660,049	<b>Applicant(s)</b> ROMME ET AL.	
	<b>Examiner</b> Paul Durand	<b>Art Unit</b> 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2004.  
 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.  
     4a) Of the above claim(s) 1-3,9-20,27,31 and 35-49 is/are withdrawn from consideration.  
 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
 6) ☒ Claim(s) 4-8,21-26,28-30,32-34 is/are rejected.  
 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:  
         1. ☐ Certified copies of the priority documents have been received.  
         2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
     \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 4-8,21-26,29,33 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bonk (US 4,101,026) in view of Ulmann et al (US 6,257,410) and Warren (US 2,776,051).

In regard to claims 4,5,21,24,29 and 34, Bonk discloses the invention substantially as claimed including a manufactured container 37, having four sides, a bottom, asymmetric by protrusion 23,52,53 and 57 and lip 53, notch 35, and a roll of moistened wipes 5 that may be coreless (see 1-7 and C4, L47-52). What Bonk does not disclose is the placement instructions. However, Ulmann teaches that it old and well known to place instructions or other types of indicia 24, on the ends of a roll 12 of moistened wipes for the purpose of instructing the user of the product (see fig. 2 and C5, L53-64). Furthermore, Warren teaches that it is old and well known in the art of dispensing to provide an article to be dispensed with an article to be dispensed with an asymmetric raised area 28 that fits into slot 15 of dispenser 10 for the purpose of increasing ease of use (see Figs. 1 and 3). Therefore, it would have been obvious to one having ordinary skill in the art to have modified the invention of Bonk by providing indicia in the form of instructions on a container as taught by Ulmann and by providing

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the asymmetrical dispenser as taught by Warren for the purpose of increasing ease of use.

In regard to claim 6, Bonk discloses the invention as claimed including protrusion 23 keyed to fit into holder/dispenser 22 (see fig.6).

In regard to claims 7 and 8, Bonk discloses the invention substantially as claimed except for the specific packaging. However, the examiner takes Official Notice that it is old and well known in the art of packaging to provide a plurality of object in a single package or container for the purpose of increasing manufacturing efficiency. Therefore, it would have been obvious to one having ordinary skill in the art to have modified the invention of Bonk by incorporating multiple containers in a single package for the purpose of increasing manufacturing efficiency.

In regard to claims 22,23,25,26 and 33, Bonk discloses the invention substantially as claimed except for the optimum value for the diameter of the roll of wet wipes. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a roll of wet wipes having an optimum diameter, since it has been held that discovering an optimum value of a result effective value involves only routine skill in the art. In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

3. Claims 28,30 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bonk (US 4,101,026) in view of Ulmann et al, Warren (US 2,776,051) and Sedlock (Des. 386,922).

Bonk discloses the invention substantially as claimed including a manufactured container 37, having four sides, a bottom, asymmetric by protrusion 23,52,53 and 57

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and lip 53, notch 35, and a roll of moistened wipes 5 that may be coreless (see 1-7 and C4, L47-52). What Bonk does not disclose is the placement instructions. However, Ulmann teaches that it is old and well known to place instructions or other types of indicia 24, on the ends of a roll 12 of moistened wipes for the purpose of instructing the user of the product (see fig. 2 and C5, L53-64). Furthermore, Warren teaches that it is old and well known in the art of dispensing to provide an article to be dispensed with an article to be dispensed with an asymmetric raised area 28 that fits into slot 15 of dispenser 10 for the purpose of increasing ease of use (see Figs. 1 and 3). Still furthermore, Sedlock teaches that it is old and well known in the art to provide a towel dispenser with a cover for the purpose of protecting the contents contained therein (see Figs.1-7). Therefore, it would have been obvious to one having ordinary skill in the art to have modified the invention of Bonk by providing indicia in the form of instructions on a container as taught by Ulmann and by providing the asymmetrical dispenser as taught by Warren as well as the cover as taught by Sedlock for the purpose of increasing ease of use and protecting the contents.

### ***Response to Arguments***

4. Applicant's arguments filed 2/13/04 have been fully considered but they are not persuasive.

Applicant first argues that none of the references used for the rejections teach or suggest providing instructions for the placement of a container in a wet wipes dispenser. The examiner disagrees with this argument. Ulmann discloses on Column 5, Lines 53-

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59, that indicia that provides instruction for use may be used on the rolls. The examiner would like to point out that the claims provide no structure as to where the indicia should be added or applied, and in the broadest reasonable interpretation of the claim the examiner asserts that instruction for use may encompass instructions for the placement of the container in a wet wipes container. Applicant further argues that the teaching of Warren does not teach the use of instructions on the packaging. While the examiner does agree with this argument, the examiner maintains that the teaching of Warren was not used for this purpose. Furthermore, the examiner asserts that a rejection based under §103 does not require that every teaching teach every element of the claim, but rather that the all the references as a whole teach every element of the claim.

Applicant further argues that neither Bonk nor Warren teach or disclose the use of an asymmetrical container. The examiner disagrees with this argument. The examiner asserts that in the broadest reasonable interpretation of the claim, the container of Bonk is asymmetric (i.e. one side is different than the other) by the addition of tab 20 on the front side, which differentiates it from the backside of the container that contains hinge 14. Furthermore, the warren teaching is provided to show the applicant that an asymmetric container is well known in the art of packaging to provide a "keyed" fit that would allow an object to be inserted in only one manner. Since applicant has not claimed any structure in the claims that further defines the asymmetry of the container, the examiner believes that a case of obviousness has been established.

Applicant further traverses the examiner's uses of Official Notice regarding the use of a cover for a dispenser. In response to this, the examiner has provided the

reference of Sedlock to show applicant that it is old and well known in the art of towel dispenser's to provide a cover to protect the contents and allow ease of removal.

Therefore, for the reasons indicated above, the rejection is deemed proper

### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Durand whose telephone number is 703-305-4962. The examiner can normally be reached on 0730-1800, Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on 703-308-2187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Paul Durand  
May 13, 2004



**SCOTT A. SMITH**  
**PRIMARY EXAMINER**